



Atty. Dkt. No.: 10209/7

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Fusz.

: Group Art Unit: 3623

Serial Number: 09/426,954

: Examiner: Boyce, Andre D.

Filed: October 26, 1999

:

For: METHODS AND APPARATUS FOR  
ANONYMOUS DATA PROFILING

: Atty. Dkt. No.: 10209/7

:

**APPELLANT'S BRIEF**

**RECEIVED**

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

SEP 13 2004

**GROUP 3600**

The Notice of Appeal in this Application was mailed on February 6, 2004. Also, this brief is transmitted in triplicate and the fee required under 37 C.F.R. § 1.17(f) is submitted herewith as set forth in the accompanying transmittal letter. This brief contains the following sections under the headings and in the order set forth below.

- I. Real Party in Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Invention
- VI. Issues
- VII. Grouping of Claims
- VIII. Argument

**Appendix A. Claims Involved in the Appeal**

09/09/2004 JBALINAM 00000040 09426954

02 FC:2402 165.00 DA

## **I. REAL PARTY IN INTEREST**

The real party in interest in this appeal is Eugene A. Fusz of Palm Beach, Florida.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences which will directly affect, or be directly affected by, or have a bearing on, the decision in this pending appeal.

## **III. STATUS OF CLAIMS**

Twenty-five (25) claims, in total, are pending in this application. Particularly, this Application was originally filed with twenty-eight (28) claims. Claims 1, 3-17, 19-26, and 28 stand rejected. Claims 2, 18, and 27 have been canceled. Claims 1, 3-17, 19-26, and 28 are on appeal.

## **IV. STATUS OF AMENDMENTS**

A Final Office Action was issued August 6, 2003, by the Examiner in response to an Amendment filed on May 21, 2003. The Final Office Action indicates that Claims 1, 3-17, 19-26, and 28 are pending and stand rejected.

## **V. SUMMARY OF THE INVENTION**

The following summary does not limit, in any manner whatsoever, the claim interpretation. Rather, the following summary is provided only to facilitate the Board's understanding of the subject matter of this appeal.

The present invention relates to an anonymous data profiling system and method which includes, in one embodiment, a database storing specific information, for example, responses to questions that have been asked of anonymous users. The users of such a system are those who wish to generate consumer profiles, for example, in order to receive relevant marketing materials while remaining anonymous to the sender of the marketing materials. The anonymity of such users is guaranteed as the system is configured to not allow a user to enter any identifying information, described in the application as contact information. Examples of such contact

information that cannot be entered into the system includes names, addresses, telephone numbers, and social security numbers of the users.

The system is also accessible to marketers of products. These marketers are able to access the anonymous profiles and direct their marketing efforts based on the profiles, for example, by providing opportunities to view the marketing materials only to those users whose anonymous profiles indicate that they may be interested in the products or services being marketed. In the exemplary embodiment, the anonymous users may provide feedback on the reviewed marketing materials. The feedback may also be used to augment the anonymous profile of the user providing the feedback.

More specifically, the methods and systems are defined by the following independent claims as set forth below.

Independent Claim 1 recites a method for prompting an individual to create an anonymous data profile for the individual. The method comprises the steps of: providing the individual with access to a database; requesting anonymous profile information about the individual be entered into the database; maintaining the anonymity of the individual through an inability to accept contact information in the profile; and compensating the individual for either or both of entry of the anonymous profile information and feedback provided in response to marketing data.

Independent Claim 8 recites a method for providing advertising feedback. The method comprises the steps of: administering to each individual a password, absent any contact information for the individual; utilizing the password to access a database; entering profile information for the individual in the database; maintaining the anonymity of the individual through an inability to accept contact information in the profile; storing the entered profile information in the database; presenting at least one of the individuals with a set of data; receiving feedback from the at least one individual regarding the set of data; and compensating the at least one individual for the feedback.

Independent Claim 16 recites an apparatus for conveying and storing information relating to anonymous data profiles that comprises a first data repository; a first computer linked to said first data repository, said first computer configured to communicate with said first data repository via a password and provide a first set of

information about an individual to said first data repository, the first set of information lacking information relating to a name, an address, a telephone number, and a social security number of the individual through an inability to accept contact information into said first computer; a processor programmed to communicate with said first data repository and said first computer; a second data repository; and a second set of computers linked to said second data repository, said second set of computers configured to provide a plurality of second sets of information to said second data repository, said first data repository separate from said second data repository, said processor further programmed to communicate with said second data repository and said second set of computers, said processor also programmed to receive and store feedback regarding the second sets of information, and provide compensation data to said first data depository and linked to the first information sets.

Independent Claim 22 recites a system for generating advertising feedback from anonymous consumers via an electronic data communications network. The system comprises a control unit for coupling to the communications network; a server coupled to said control unit and comprising a consumer generated data base for storing profile information relating to consumers, the data base having an inability to accept contact information within the profile, a marketer data base for storing information to be reviewed by consumers, and a processor programmed to: receive consumer generated data sets from consumers, said consumer generated data sets controlled by the consumers, each consumer generated data set including a set of individual characteristics, though refusing a name, an address, and a social security number entry for the consumer, said processor further programmed to download said consumer generated data sets into said consumer generated data base; receive information from marketers, said information controlled by said marketers, said processor further programmed to download said marketer generated data into said marketer data base; said processor further programmed to compare said marketer generated data to each said consumer generated data set and if said marketer generated data is identified as matching one or more said individual characteristics of said consumer generated data sets, designating said marketer generated data for being communicated to the consumer, said processor also programmed to receive feedback from the anonymous consumers regarding the marketer generated data, said system configured to provide compensation to the anonymous consumers for the feedback.

## **VI. ISSUES**

A. Whether Claims 1, 3-17, 19-26, and 28 are unpatentable under 35 U.S.C. § 103(a) over Goldhaber et al. (U.S. Patent Number 5,855,008) in view of Kepecs (U.S. Patent Number 6,009,411).

## **VII. GROUPING OF CLAIMS**

All rejected claims (i.e., Claims 1, 3-17, 19-26, and 28) do not stand or fall together as discussed below in detail. Claims 1 and 3-7 stand and fall together. Claims 8-15 stand and fall together. Claims 16, 17, and 19-21 stand and fall together. Claims 22-26 and 28 stand and fall together.

## **VIII. ARGUMENT**

Applicant respectfully submits that each pending claim in the present application is patentable over the art cited by the Examiner in rejecting such claims. Accordingly, Applicant respectfully traverses the rejections of the pending claims, and request that the Final Rejection be withdrawn and that the pending claims be allowed. In support of these requests, a background discussion and a discussion regarding the patentability of the claimed apparatus and methods is set forth below.

### **A. Background**

The present invention is directed to an anonymous consumer profiling system and method, where the system is accessible via a network, such as the Internet. The system facilitates the self generation, by interested consumers, of anonymous consumer profiles that provide marketers an insight into consumer likes, dislikes, planned purchases, etc. The invention is directed to overcoming the shortcomings associated with current marketing methods such as mass mailings and electronic media, which are only successful a small percentage of the time. Through the use of anonymous consumer profiles, sometimes referred to as data profiles, marketers of products and services, can more effectively target potential purchasers of those products and services, and the consumers can remain completely anonymous.

The consumers generate their anonymous data profiles at a time of their discretion. Once a database of profiles has been generated, the marketers can access

the profiles and decide to which of the stored consumer profiles they wish to direct their marketing efforts. The method and system of the present invention is consumer-centric as the consumers decide when they want to view any marketing data that has been aligned to their anonymous consumer profile. Such a marketing system is thought to benefit marketers as well since relevant consumers will be viewing their marketing message. In addition, the marketing message will be viewed at a time of the consumers choosing, at a time when the consumer is thought to be more receptive to the marketing message.

An object of the present invention is to provide a system for easily conveying and storing information relating to anonymous consumer profiles. The system enables a user to easily and quickly generate an anonymous consumer profile through a series of questionnaires. However, the anonymity of the consumers is ensured as the system is configured with an inability to accept information that would be considered contact information (i.e., name, address, telephone number, social security number). Additionally, the present invention enables an anonymous consumer to provide feedback regarding the viewed marketing materials and enables compensation payments to the anonymous consumers in exchange for their viewing of the marketing information. The feedback provides information to the marketers for improvement of their future presentations to anonymous consumers, and also is utilized by the system to refine the stored anonymous consumer profiles.

Applicant respectfully submits that even once the shortcomings of the known art are recognized and the needs are defined as set forth above, the art cited in the rejection of the claims presently on appeal would not lead, nor even suggest to, one skilled in the art the novel and non-obvious structures and methods recited in the presently pending claims.

The references cited in the rejections of the present claims do not address the combination of objects attained by the subject apparatus, much less teach or even suggest apparatus and methods which attain these objects.

B. The Methods and Systems Recited In Pending Claims 1, 3-17, 19-26, and 28 Are Non-obvious Over Goldhaber et al. (U.S. Patent Number 5,855,008) in view of Kepcs (U.S. Patent Number 6,009,411).

The following discussion sets forth the Section 103 rejections cited against the pending claims and summarizes current and applicable law with respect to obviousness. In addition, a discussion of the cited combinations with respect to the structures recited in each pending claim, in view of current and applicable law, is provided. A discussion of certain aspects of the final Office Action, and a claim-by-claim analysis of the pending claims also is set forth.

### 1. The 35 U.S.C. § 103 Rejections

In the August 6, 2003 Office Action, Claims 1, 3-17, 19-26, and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Goldhaber et al. (U.S. Patent Number 5,855,008) in view of Kepecs (U.S. Patent Number 6,009,411). The Office Action explains that:

As per claim 1, Goldhaber et al. disclose a method for prompting an individual to create an anonymous data profile for the individual (see column 6, lines 40-44), comprising the steps of providing the individual with access to a database (consumer database 120, see column 12, lines 21-24), requesting anonymous profile information, about the individual be entered into the database (see column 12, lines 28-30), and compensating the individual for either or both of entry of the anonymous profile information and feedback provided in response to marketing data (see column 10, lines 46-53). Goldhaber et al. does not disclose maintaining the anonymity of the individual through an inability to accept contact information in the profile. Kepecs discloses a method of distributing and redeeming promotions wherein no consumer identification is maintained (see column 2, lines 50-52). The lowest level of identification in Kepecs is simply a unique customer key with no other identification data (see column 6, lines 51-53), wherein the consumer is compensated via a discount or credit (see column 5, lines 41-45), identified via the key (see column 5, lines 55-57).

Office Action, Page 3, August 6, 2003. The Office Action continues explaining:

Both Goldhaber and Kepcs are concerned with an effective method of marketing products to potential consumers, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include maintaining the anonymity of the individual through an inability to accept contact information in the profile in the Goldhaber et al. method, as seen in Kepcs, thus providing complete privacy for the individual, thereby increasing the number of consumers that would otherwise be reluctant to use a method which requires identifying information.

## 2. Applicable Law With Respect To Obviousness

Section 103, in pertinent part, provides:

A patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

35 U.S.C. § 103. As explained by the Federal Circuit, "[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination." In re Geiger, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987), citing, ACS Hospital Systems, Inc. v. Montefiore Hospital, 221 USPQ 929, 933 (Fed. Cir. 1984).

Moreover, the Federal Circuit has determined that:

[i]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992), citing, In re Gordan, 221 USPQ at 1127. Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Also, if art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966).

3. The Section 103 Rejections Of The Present Claims Are Not Proper Prima Facie Obviousness Rejections

Applicant respectfully submits that the Section 103 rejections of presently pending Claims 1, 3-17, 19-26, and 28 are not proper rejections.

Goldhaber et al. describe an approach for distributing advertising and other information over a computer network. The attention brokerage of Goldhaber et al. describe buying and selling (brokering) the attention of consumers. Confidential profiles are maintained for different consumers and consumer information may be released to advertisers based on permissions granted by the consumer. Also, the consumer may be compensated for releasing their consumer information, which includes, for example, a name and an address for the consumer (See Column 12, lines 49-57). More specifically, at Column 12, lines 24 – 28, contact information is further described as identifying the consumer so that other computers can contact the consumer's computer. Referring to Column 13, lines 28-31, identification (e.g., contact) information is stored within a contact

information block 122 of database 120. Information useful in forming an interest profile 124 of the consumer is also stored in database 120.

As described above, the system of Goldhaber et al. does include contact information. As such, the system is vulnerable to computer hackers who may try to extract profile information and associated contact information. Individuals who do not want releases of profile information together with contact information are not likely to generate reliable profiles, fearing an unauthorized dissemination of such information.

The Kepecs Patent describes a method (discount administration process (DAP)) and system for distributing and reconciling electronic promotions. In Kepecs, unique “keys” are maintained for each consumer, and one or more of retailers and financial institutions are associated with each unique key. The consumers associated with particular keys are provided discount or other promotional choices by the one or more retailers associated with the particular keys and the discounts are, in one embodiment, credited to the consumer’s account at the financial institution. As such, the system of Kepecs serves to administer a customer loyalty program.

A DAP computer administers this discount program, and in one embodiment, administers the discount program utilizing only the keys. The DAP computer receives the promotion from the retailer, and further receives the keys that identify the consumer accounts associated with the particular discount program. The DAP computer then notifies the relevant consumers of the pending promotion, utilizing the keys.

Each key is associated with an individual consumer account with the retailer. The consumer receives the discount offered in the promotion, for example, when they go to the store and purchase the discounted product. While the keys utilized may be anonymous with

respect to the DAP computer, the consumers do not appear to be anonymous with respect to the retailer or the financial institution. For example, referring to Kepecs at Column 4, lines 7-9, the consumer may . . . receive the credit in a designated financial account, e.g., the consumer's credit card account.

It is submitted then that, at most, the Kepecs Patent describes a system in which users having a key receive discount promotions from retailers who maintain a list of keys that are associated with accounts of known consumers. Discounts for a set of keys are received by the DAP computer and forwarded to the individuals represented by the received set of keys who then choose whether or not to go to the retailer to purchase the item(s) that are being promoted. The Kepecs patent does not describe or suggest the present invention as recited in the pending claims. Specifically, it is respectfully submitted that neither the Goldhaber et al. Patent or the Kepecs Patent teach an anonymous data profiling method and system where consumers can generate anonymous profiles for themselves which are utilized in the providing of marketing information, based on the profile, as asserted in the February 6, 2004 Office Action.

In making a determination of obviousness, it is well settled that a reference is only effective for what it discloses -- general guidance toward solution of a problem is not enough.

The [cited] reference is of the type that gives only general guidance and is not at all specific as to the particular form of the claimed invention and how to achieve it. Such a suggestion may make an approach "obvious to try" but it does not make the invention obvious.

In re Obukowicz, 27 U.S.P.Q. 2d 1063, 1065 (Bd. Pat. App. 1992). Indeed, it is not sufficient to support an obviousness rejection that it might have been "obvious to try" a new technology or general approach that seemed to be a promising field of experimentation as to the particular form of the claimed invention or how to achieve it. See In re O'Farrell, 7 U.S.P.Q.2d 1673, 1681 (Fed. Cir. 1988) and cases cited therein.

The Kepecs Patent does not relate to a system for generating anonymous data profiles. Rather, the Kepecs Patent is directed towards administration of a customer loyalty system where retailers send discount information, based on customer identifiers (e.g., keys), to the above described DAP computer. The consumers access the DAP computer, using their particular key, to see what discounts are available to them. However, while the DAP computer may administer the discount programs using only the keys, an inability to accept consumer identification information is not described. Furthermore, the consumers do not appear to be anonymous with respect to the retailer or financial institutions. For example, Kepecs states at Column 5, line 61, that financial institutions may distribute the keys. In another example, Kepecs states at Column 4, lines 7-9, that the "consumer may receive the discount at the time of purchase, or receive a credit in a designated financial account, e.g., the consumer's credit card account."

Further, at Column 6, lines 52-59, Kepecs states that by using only the key, the consumer is anonymous to the DAP computer. However, Kepecs also states that the key may have "non-anonymous bindings elsewhere", for example, to a store loyalty card and that the store (retailer) may be aware of the consumer's identity. Presumably other "non-anonymous bindings" would also include the tying of the key to a consumer's account with a financial institution.

It appears that the DAP computer of Kepecs is a part of a system of networked computers (DAP computer, retailer computer, consumer computer, and financial institution computer) and that the DAP computer performs as an intermediary between the computer systems of various entities (i.e., consumers, retailers and financial institutions), at least some of which associate the key with consumer identifying accounts. While Kepecs discloses that the DAP computer can perform this intermediary function using only the key, Kepecs does not describe nor suggest a system or a method which includes an inability to accept consumer identification information. Rather, Kepecs describes a networked computer system where individual computers having consumer identifying information communicate with one another regarding consumer accounts through use of a non-consumer identifying key. Still further, Applicant suggests that if the DAP computer is networked to the computers of the retailer and financial institutions, then the consumer identification information is vulnerable to disclosure via unlawful means, for example, through hacking of the networked computers.

Lastly, while at Column 9, line 62 to Column 10, line 3, Kepecs states that the DAP computer can retain a shopping microhistory for each consumer to generate a “profile” on consumer purchasing habits, such a “profile” is limited to the purchasing history only and is inconsistent with the use of the term “profile” in the presently pending application.

Therefore, it is submitted that one skilled in the art would have no motivation to combine the teachings of the Kepecs patent with that of the Goldhaber et al. non-anonymous profiling system. Any combination of these references is improper in the absence of some such suggestion or motivation.

Accordingly, it is submitted that, as a matter of law, the Goldhaber et al. Patent in view of the Kepecs Patent, taken alone or in any proper combination, cannot anticipate or render obvious Applicant's claims.

**A. Claim 1 and Its Dependent Claims**

Claims 3-7 depend from Independent Claim 1, which recites a method for prompting an individual to create an anonymous data profile for the individual. The method comprises the steps of: providing the individual with access to a database; requesting anonymous profile information, about the individual be entered into the database; maintaining the anonymity of the individual through an inability to accept contact information in the profile; and compensating the individual for either or both of entry of the anonymous profile information and feedback provided in response to marketing data.

As explained, Goldhaber et al. describe a profiling system where consumer contact information is made available to a third party (e.g., a marketer) if the consumer agrees to the release of the contact information. The contact information is stored in the system of Goldhaber et al. when a person registers their profile. There is no suggestion or teaching of anonymous consumer profile generation. Further, there is no suggestion or teaching of maintaining the anonymity of the individual through an inability to accept contact information in the profile.

Kepecs describes administration of customer loyalty programs utilizing a discount administration process (DAP) computer which utilizes customer specific keys. To provide a promotion to a selected group of customers, the retailer 23 submits a list of keys to the DAP

computer 11. The DAP computer is configured to utilize the received list of keys to send a notification to the computers 10 of each of the customers associated with the individual keys. As described above, the customer, in one embodiment, is identified to the DAP computer only by the key.

Goldhaber et al. taken with Kepecs do not teach or suggest a method for prompting an individual to create an anonymous data profile which comprises requesting anonymous profile information be entered and maintaining anonymity through an inability to accept contact information. Rather, Goldhaber et al. describe a profiling system which includes consumer contact information and where such contact information is made available to a third party pending consumer approval. Kepecs is a customer loyalty program where, in one embodiment, keys that are anonymous to an administration system (e.g., the DAP computer) are utilized to provide promotion and discount information, from a retailer to a set of known customers. The consumer's financial institutions may include one or more accounts (which include consumer identifying information) that are tied to the key. The retailer computer systems also tie the key to a consumer account which identifies the consumer.

While the DAP computer can perform its functions using only the non-consumer identifying keys, it communicates with other computers (retailer, financial institutions) which maintain consumer identification information. As such, Kepecs does not teach maintaining the anonymity of the consumers through an inability to accept contact information in a profile. For the reasons set forth above, Claim 1 is submitted to be patentable over Goldhaber et al. in view of Kepecs.

Claims 3-7 depend from independent Claim 1. When the recitations of Claims 3-7 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3-7 likewise are patentable over Goldhaber et al. in view of Kepecs.

**B. Claim 8 and Its Dependent Claims**

Claim 8 recites a method for providing advertising feedback. The method comprises the steps of: administering to each individual a password, absent any contact information for the individual; utilizing the password to access a database; entering profile information for the individual in the database; maintaining the anonymity of the individual through an inability to accept contact information in the profile; storing the entered profile information in the database; presenting at least one of the individuals with a set of data; receiving feedback from the at least one individual regarding the set of data; and compensating the at least one individual for the feedback.

As explained above, Goldhaber et al. describe a profiling system where consumer contact information is made available to a third party (e.g., a marketer) if the consumer agrees to the release of the contact information. The contact information is stored in the system of Goldhaber et al. when a person registers their profile.

Although Goldhaber et al. describe compensation of individuals that provide feedback, there is no suggestion or teaching of anonymous consumer profile generation. Further, there is no suggestion or teaching of maintaining the anonymity of the individual through an inability to accept contact information in the profile.

Kepecs, as explained above, describes administration of customer loyalty programs utilizing a discount administration process

(DAP) computer which utilizes customer specific keys. To provide a promotion to a selected group of customers, the retailer 23 submits a list of keys to the DAP computer 11. The DAP computer is configured to utilize the received list of keys to send a notification to the computers 10 of each of the customers associated with the individual keys. As described above, the customer, in one embodiment, is identified to the DAP computer only by the key.

Goldhaber et al. taken with Kepecs do not teach or suggest a method for providing advertising feedback comprising maintaining the anonymity of the individual through an inability to accept contact information in the profile. Rather, Goldhaber et al. describe a profiling system which includes consumer contact information and where such contact information is made available to a third party pending consumer approval. Kepecs is a customer loyalty program where, in one embodiment, keys that are anonymous to an administration system (e.g., the DAP computer) are utilized to provide promotion and discount information, from a retailer to a set of known customers. The consumer's financial institutions may include one or more accounts (which include consumer identifying information) that are tied to the key. The retailer computer systems also tie the key to a consumer account which identifies the consumer.

While the DAP computer can perform its functions using only the non-consumer identifying keys, it communicates with other computers (retailer, financial institutions) which maintain consumer identification information. As such, Kepecs does not teach maintaining the anonymity of the consumers through an inability to accept contact information in a profile since computers communicating with the DAP computer include consumer identifying information. For

the reasons set forth above, Claim 8 is submitted to be patentable over Goldhaber et al. in view of Kepecs.

Claims 9-15 depend from independent Claim 8. When the recitations of Claims 9-15 are considered in combination with the recitations of Claim 8, Applicant submits that dependent Claims 9-15 are also patentable over Goldhaber et al. in view of Kepecs.

**C. Claim 16 and Its Dependent Claims**

Claim 16 recites an apparatus for conveying and storing information relating to anonymous data profiles that comprises a first data repository; a first computer linked to said first data repository, said first computer configured to communicate with said first data repository via a password and provide a first set of information about an individual to said first data repository, the first set of information lacking information relating to a name, an address, a telephone number, and a social security number of the individual through an inability to accept contact information into said first computer; a processor programmed to communicate with said first data repository and said first computer; a second data repository; and a second set of computers linked to said second data repository, said second set of computers configured to provide a plurality of second sets of information to said second data repository, said first data repository separate from said second data repository, said processor further programmed to communicate with said second data repository and said second set of computers, said processor also programmed to receive and store feedback regarding the second sets of information, and provide compensation data to said first data depository and linked to the first information sets.

As explained above, Goldhaber et al. describe a profiling system where consumer contact information is made available to a third party (e.g., a marketer) if the consumer agrees to the release of the contact information. The contact information is stored in the system of Goldhaber et al. when a person registers their profile.

Although Goldhaber et al. describe compensation of individuals that provide feedback, there is no suggestion or teaching of anonymous consumer profile generation. Further, there is no suggestion or teaching of an inability to accept contact information.

Kepecs, as explained above, describes administration of customer loyalty programs utilizing a discount administration process (DAP) computer which utilizes customer specific keys. To provide a promotion to a selected group of customers, the retailer 23 submits a list of keys to the DAP computer 11. The DAP computer is configured to utilize the received list of keys to send a notification to the computers 10 of each of the customers associated with the individual keys. As described above, the customer, in one embodiment, is identified to the DAP computer only by the key.

Goldhaber et al. taken with Kepecs do not teach or suggest an apparatus for conveying and storing information relating to anonymous data profiles that comprises a first computer configured to provide a first set of information about an individual to a data repository where the first set of information lacks information relating to a name, an address, a telephone number, and a social security number of the individual through an inability to accept contact information into the first computer. Rather, Goldhaber et al. describe a profiling system which includes consumer contact information and where such contact information is made available to a third party pending consumer approval. Kepecs is a customer loyalty program where, in one

embodiment, keys that are anonymous to an administration system (e.g., the DAP computer) are utilized to provide promotion and discount information, from a retailer to a set of known customers. The consumer's financial institutions may include one or more accounts (which include consumer identifying information) that are tied to the key. The retailer computer systems also tie the key to a consumer account which identifies the consumer.

While the DAP computer can perform its functions using only the non-consumer identifying keys, it communicates with other computers (retailer, financial institutions) which maintain consumer identification information. Therefore, Kepecs does not teach an inability to accept contact information.

For the reasons set forth above, Claim 16 is submitted to be patentable over Goldhaber et al. in view of Kepecs.

Claims 17 and 19-22 depend from independent Claim 16. When the recitations of Claims 17 and 19-22 are considered in combination with the recitations of Claim 16, Applicant submits that dependent Claims 17 and 19-22 are also patentable over Goldhaber et al. in view of Kepecs.

**D. Claim 22 and Its Dependent Claims**

Claim 22 recites a system for generating advertising feedback from anonymous consumers via an electronic data communications network. The system comprises a control unit for coupling to the communications network; a server coupled to said control unit and comprising a consumer generated data base for storing profile information relating to consumers, the data base having an inability to accept contact information within the profile, a marketer data base for

storing information to be reviewed by consumers, and a processor programmed to: receive consumer generated data sets from consumers, said consumer generated data sets controlled by the consumers, each consumer generated data set including a set of individual characteristics, though refusing a name, an address, and a social security number entry for the consumer, said processor further programmed to download said consumer generated data sets into said consumer generated data base; receive information from marketers, said information controlled by said marketers, said processor further programmed to download said marketer generated data into said marketer data base; said processor further programmed to compare said marketer generated data to each said consumer generated data set and if said marketer generated data is identified as matching one or more said individual characteristics of said consumer generated data sets, designating said marketer generated data for being communicated to the consumer, said processor also programmed to receive feedback from the anonymous consumers regarding the marketer generated data, said system configured to provide compensation to the anonymous consumers for the feedback.

As explained above, Goldhaber et al. describe a profiling system where consumer contact information is made available to a third party (e.g., a marketer) if the consumer agrees to the release of the contact information. The contact information is stored in the system of Goldhaber et al. when a person registers their profile. Although Goldhaber et al. describe compensation of individuals that provide feedback, there is no suggestion or teaching of anonymous consumer profile generation. Further, there is no suggestion or teaching of maintaining the anonymity of the individual through an inability to accept contact information in the profile.

Kepecs, as explained above, describes administration of customer loyalty programs utilizing a discount administration process (DAP) computer which utilizes customer specific keys. To provide a promotion to a selected group of customers, the retailer 23 submits a list of keys to the DAP computer 11. The DAP computer is configured to utilize the received list of keys to send a notification to the computers 10 of each of the customers associated with the individual keys. As described above, the customer, in one embodiment, is identified to the DAP computer only by the key.

Goldhaber et al. taken with Kepecs do not teach or suggest an apparatus for generating advertising feedback from anonymous consumers which includes a processor configured to receive consumer generated data sets from consumers, the data sets controlled by the consumers, each consumer generated data set including a set of individual characteristics, though refusing a name, an address, and a social security number entry for the consumer. Rather, Goldhaber et al. describe a profiling system including consumer contact information where such contact information is made available to a third party pending consumer approval. Kepecs is a customer loyalty program where, in one embodiment, keys that are anonymous to an administration system (e.g., the DAP computer) are utilized to provide promotion and discount information, from a retailer to a set of known customers. The consumer's financial institutions may include one or more accounts (which include consumer identifying information) that are tied to the key. The retailer computer systems also tie the key to a consumer account which identifies the consumer.

While the DAP computer can perform its functions using only the non-consumer identifying keys, it communicates with other computers (retailer, financial institutions) which maintain consumer

identification information. For the reasons set forth above, Claim 22 is submitted to be patentable over Goldhaber et al. in view of Kepecs.

Claims 23-26 and 28 depend from independent Claim 22.

When the recitations of Claims 23-26 and 28 are considered in combination with the recitations of Claim 22, Applicant submits that dependent Claims 23-26 and 28 are also patentable over Goldhaber et al. in view of Kepecs.

For all the reasons set forth above, Applicant respectfully submits that the structures and methods recited in the pending claims in the present application are patentably distinguishable over the cited art. Accordingly, Applicant respectfully requests that the final rejection be withdrawn, and the presently pending claims allowed. Favorable action is respectfully solicited.

Respectfully submitted,



Robert E. Stenker  
Reg. No. 45,112  
Armstrong Teasdale LLP  
One Metropolitan Square  
Suite 2600  
St. Louis, Missouri 63102-2740



#### **APPENDIX OF CLAIMS INVOLVED IN THE APPEAL**

1. A method for prompting an individual to create an anonymous data profile for the individual, said method comprising the steps of:
  - providing the individual with access to a database;
  - requesting anonymous profile information, about the individual be entered into the database;
  - maintaining the anonymity of the individual through an inability to accept contact information in the profile; and
  - compensating the individual for either or both of entry of the anonymous profile information and feedback provided in response to marketing data.
3. A method in accordance with Claim 1 wherein said step of requesting anonymous profile information comprises the step of asking the individual a plurality of questions.
4. A method in accordance with Claim 3 further comprising the step of communicating with the individual via a password.
5. A method in accordance with Claim 4 wherein said step of communicating with the individual comprises the step of asking the individual for a multi-character identifier.
6. A method in accordance with Claim 1 wherein said step of providing the individual with access further comprises the step of asking the individual at least one personal question, wherein the individual is permitted to enter the database only if a correct multi-character identifier is given and if at least one of the personal questions is answered correctly.
7. A method in accordance with Claim 1 wherein contact information includes at least one of a name, a social security number, a telephone number, and an address of the individual.

8. A method for providing advertising feedback, said method comprising the steps of:

administering to each individual a password, absent any contact information for the individual;

utilizing the password to access a database;

entering profile information for the individual in the database;

maintaining the anonymity of the individual through an inability to accept contact information in the profile;

storing the entered profile information in the database;

presenting at least one of the individuals with a set of data;

receiving feedback from the at least one individual regarding the set of data; and

compensating the at least one individual for the feedback.

9. A method in accordance with Claim 8 wherein said step of presenting the individuals with a set of data comprises the step of presenting each individual with a second set of information generated by an advertiser.

10. A method in accordance with Claim 8 further comprising the step of communicating the feedback in aggregate form to the advertisers.

11. A method in accordance with Claim 8 wherein said step of administering to each individual a password comprises the step of allowing each individual to choose a multi-character identifier.

12. A method in accordance with Claim 8 wherein said step of administering to each individual a password comprises the step of asking the individual a plurality of questions.

13. A method in accordance with Claim 8 wherein said compensating further comprises the step of paying the individuals for their feedback with at least one of digital cash, credits, or coupons.

14. A method in accordance with Claim 9 further comprising the step of separating the profile information from the set of data information and ensuring the advertisers do not obtain the profile information.

15. A method in accordance with Claim 8 wherein said step of presenting each individual with a set of data comprises the step of presenting each individual with data that is specific to the profile information provided by the at least one individual.

16. Apparatus for conveying and storing information relating to anonymous data profiles, said apparatus comprising:

a first data repository;

a first computer linked to said first data repository, said first computer configured to communicate with said first data repository via a password and provide a first set of information about an individual to said first data repository, the first set of information lacking information relating to a name, an address, a telephone number, and a social security number of the individual through an inability to accept contact information into said first computer;

a processor programmed to communicate with said first data repository and said first computer;

a second data repository; and

a second set of computers linked to said second data repository, said second set of computers configured to provide a plurality of second sets of information to said second data repository, said first data repository separate from said second data repository, said processor further programmed to communicate with said second data repository and said second set of computers, said processor also programmed to receive and store feedback regarding the second sets of information, and provide compensation data to said first data depository and linked to the first information sets.

17. Apparatus in accordance with Claim 16 wherein said processor is further programmed to store the first set of information from said first computer if a correct password is provided by said first computer.

19. Apparatus in accordance with Claim 16 wherein said second set of computers cannot access said first data repository.

20. Apparatus in accordance with Claim 16 wherein said processor is further programmed to screen the second set of information and grant access to the screened second set of information by the first computer if the screened second set of information includes at least one attribute compatible with at least one attribute in the first set of information.

21. Apparatus in accordance with Claim 20 wherein said first computer is configured to access the screened second set of information stored in said first data repository.

22. A system for generating advertising feedback from anonymous consumers via an electronic data communications network, said system comprising:

a control unit for coupling to the communications network;

a server coupled to said control unit and comprising a consumer generated data base for storing profile information relating to consumers, the data base having an inability to accept contact information within the profile, a marketer data base for storing information to be reviewed by consumers, and a processor programmed to:

receive consumer generated data sets from consumers, said consumer generated data sets controlled by the consumers, each consumer generated data set including a set of individual characteristics, though refusing a name, an address, and a social security number entry for the consumer, said processor further programmed to download said consumer generated data sets into said consumer generated data base;

receive information from marketers, said information controlled by said marketers, said processor further programmed to download said marketer generated data into said marketer data base;

said processor further programmed to compare said marketer generated data to each said consumer generated data set and if said marketer generated data is identified as matching one or more said individual characteristics of said consumer generated data sets, designating said marketer generated data for being communicated to the consumer, said processor also programmed to receive feedback from the anonymous consumers regarding the marketer generated data, said system configured to provide compensation to the anonymous consumers for the feedback.

23.    A system in accordance with Claim 22 wherein said processor is further programmed to communicate said designated marketer generated data to the consumer if the consumer chooses to view said marketer generated data.

24.    A system in accordance with Claim 23 wherein said processor is further programmed to communicate the anonymous consumer generated feedback of said designated marketer generated data to the marketer.

25.    A system in accordance with Claim 22 wherein said processor is further programmed to prevent the marketers from accessing said consumer generated data sets.

26.    A system in accordance with Claim 22 wherein said processor is further programmed to accept consumer generated data sets from the consumers if a correct password is received by said processor.

28.    A system in accordance with Claim 22 wherein the electronic data communications network is a wide area network comprising the Internet.